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November 9, 2000

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne Brathwaite Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: J. Tyler McCauley
Auditor-Controller

Subject: **Response to Refugio Para Ninos Audit Report**

On October 12, 2000, Refugio Para Ninos (Refugio) Foster Family Agency (FFA) issued a response to our September 5, 2000 fiscal audit report of their Agency. In their response, Refugio indicated general disagreement with our questioned costs and questioned the basis of some of our findings. As requested by your Board, the following are our comments regarding Refugio's response.

Background

The Department of Children and Family Services (DCFS) contracts with Refugio to provide the basic needs and services for foster children placed in the Agency's care. As a result of our audit of Refugio's operations, we questioned $759,006 in expenditures made over a three-year period. Of this amount, $519,741 represents compensation paid to, or on behalf of, the Agency's Executive Director (Director), including a $180,000 annual salary and an additional $83,334 in annual pension payments. In our audit, we compared the Director's compensation to various FFA salary surveys and salary guidelines, and found that it appeared to be excessive. For example, a salary survey of 437 non-profit agencies found an average executive director salary of $91,000.

Conclusion

We reviewed the information and arguments presented by Refugio in their response. We continue to believe that our original report is accurate. We found several inaccuracies within Refugio's response that we have addressed in the attached report.

If you have any questions, please call me or Pat McMahon at (213) 974-0301.

JTM:PTM:MR:RD

c: David E. Janssen, Chief Administrative Officer
Audit Committee Members
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Refugio Para Ninos – Foster Family Agency
Response to Fiscal Audit

Background

On October 12, 2000, Refugio Para Ninos (Refugio) Foster Family Agency (FFA) issued a response to our September 5, 2000 fiscal audit report of their Agency. In their response, Refugio indicated general disagreement with our questioned costs and questioned the basis of some of our findings. The following summarizes our response to some of the areas of disagreement. We separated the issues into two sections: **"Questioned Compensation Paid to the Executive Director"** and **"Other Questioned Costs"**.

I. Questioned Compensation Paid to the Executive Director

The Director receives annual compensation of $180,000 in base salaries, $83,334 in pension payments paid directly to him, and $20,000 in other benefits including travel allowances, lodging accommodations and vehicle-related expenses.

- **The Agency indicates that FFA Directors are not subject to any salary caps.**

  Per their contract with the County, the Agency is subject to guidelines established by the California Department of Social Services – Manual of Policies and Procedures (CDSS – MPP) that sets the proposed salary limit for group home executive directors at $102,859. We realize that Refugio is a FFA. However, we spoke to State Foster Care Audit representatives and they indicated FFAs are subject to all applicable guidelines in the CDSS – MPP, including the guidelines established for group home executive directors.

- **Refugio cites increasing numbers of placements and earnings as justification for the Director's $180,000 base salary.**

  Increasing numbers of placements and earnings should not dictate salary increases. Per the Federal Office of Management and Budget Circular A-122 (Circular), compensation should be reasonable for the actual personal services rendered. While the size of an organization and its revenues are factors in setting salary levels, more compelling considerations should be the salary of like organizations and limits imposed by the grantor agencies. The Director's salary significantly exceeds both of these criteria.

- **The Agency contends that the Director is functioning in the capacity of four individuals. They argue that an increase in the number of functions the**

Director is responsible for justifies his increased salary. They also argue that they did not need prior approval for the Director to hold more than one position, indicating that, "Section 88064(b) of Title 22 specifically provides that administrators may hold more than one position and makes no mention of prior approval."

County guidelines do not contradict this State regulation but simply require that the Agency obtain prior approval from the County. Since Refugio signed a contract with the County, they are required to comply with County regulations and guidelines. In addition, we continue to believe that it is questionable whether one person can adequately perform the full range of duties of four positions.

- **Refugio argues that the Director's salary has already been approved and agreed to by the County with its acceptance of the Program Statement and should not be the subject of some form of retroactive challenge.**

Refugio did not include the Director's salary in its Program Statement until after our review period. That Program Statement did not take effect until May 1, 2000. In addition, the Director's salary level is not subject to approval in the Program Statement, as it is not required information. Therefore, Refugio's inclusion of the Director's salary in the Program Statement does not constitute an approval by the County.

- **Refugio argues that the Child Welfare League of America (CWLA) 1999 Salary Survey shows a director at an agency similar to Refugio earning $250,000 annually. Refugio also indicates they have discovered three agencies whose directors perform one function, yet receive higher salaries than Mr. Steinberg.**

The agency paying $250,000 to its Director has an annual budget of $69 million and 1,548 full-time staff members compared to Refugio's $6.7 million in revenue and 51 full-time staff members. Accordingly, these two agencies are not similar, as Refugio claims, and should not be compared directly.

In regards to the other three agencies cited, we do not know who these agencies are, how their operations compare with Refugio's, or whether their salaries are reasonable.

- **Refugio claims that only $135,000 of the Director's $180,000 salary is supported by County funding. Other funding sources include the State Victims of Crime Program, fund raising, investment interest earned and income from other counties.**

This claim is inaccurate. Specifically:

- The Victims of Crime Program did not begin until January 14, 2000, after the period of our review.

- We noted no fund raising revenue during the period of our review.

- Investment interest earned on FFA monies is subject to FFA guidelines and, therefore, should be categorized as County funding.

- Less than 5% of Refugio's revenues are attributable to FFA income from other counties.

• **In an effort to obtain a reasonableness test for Executive Director salaries, we averaged the salaries for the Foster Family Agencies (FFAs) we have previously audited. Refugio contends that the number of FFAs was originally seven, but was reduced to six without explanation. Refugio further claims this was done in an "unmitigated manipulation of data," in order to lower the average salary from $85,000 to $74,000.**

As we explained to Refugio during our exit conference, we excluded one FFA from our survey because we could not verify that executive director's salary level. It should be noted that even if the salary, as cited by Refugio, is included, the $85,000 average is less than half of what Refugio's Director is paid.

<u>Compensation as a Board Member</u>

• **Refugio claims that compensating the Executive Director as a Board member is appropriate since he assumes responsibilities and potential liabilities in addition to those which he has as Executive Director.**

Since he already receives compensation as Refugio's Executive Director, it appears excessive to receive additional pay as a Board member, unless that pay is for incidental expenses incurred while performing Board member duties (see also Board Member Compensation section below).

<u>Pension Plan</u>

• **Refugio claims that the Director's pension plan of $83,334 is warranted because it was approved in the Director's employment agreement. They also argue that the plan is equitable because they have a pension plan in place for all employees.**

The fact that the pension plan was approved in the Director's employment agreement does not necessarily indicate that the plan is reasonable or appropriate. It should also be noted that the pension plan for the other Refugio employees was not started until January 1, 2000, after the period of our review, and does not offer equitable terms. Also, at least some of the pension payments were issued directly to the Director instead of to a financial institution.

Retroactive Salary Increase

- **Refugio agrees that they should not have retroactively increased the Director's salary.**

  However, they do not indicate any plans for repayment of the $19,800.

Hotel Accommodations

- **Refugio contends that hotel accommodations charged to the FFA program were incurred so that the Director would not have to drive 40 miles home when working late.**

  In our opinion, a long commute does not justify spending $3,885 for hotel accommodations. Per the Circular, Section 55-A, hotel accommodations are only allowable when an employee is traveling on official business of the organization.

Vehicle Related Expenses

- **Refugio claims that the Mercedes-Benz was garaged at the Director's residence in order to maintain physical security over the asset. They further justify the Director's personal use of the Mercedes by citing a study performed by the Child Welfare League, which indicates the common practice of providing CEO's with personal automobiles.**

  Section 7-G of the Circular clearly states that the portion of organization-furnished automobiles that relates to personal use by employees is unallowable. The fact that other agencies provide their Directors with personal vehicles does not legitimize the practice.

II. Other Questioned Costs

Undocumented Payroll Costs

- **Refugio asserts that the $226,868 in payroll costs were adequately documented. They indicate that adequate support exists in the form of Board meeting minutes, regular audits of social workers and "time off" documentation.**

  As indicated in our report, none of these salaried employees submitted timecards. In signing the Contract, Refugio agreed to provide time records for all employees. We did note the Board meeting minutes, audits of social workers and "time off" documentation, but these are not adequate forms of support for payroll costs.

Unsupported Credit Card Expenditures

- **We noted $2,821 in credit card expenses that were unsupported. Refugio asserts that they have maintained 90% of all credit card receipts.**

  The 90% that Refugio is alluding to is the portion of our sample that we did not question. This does not change the fact that $2,821 (10%) in credit card expenses remain unsupported.

Unsupported Luncheons

- **We noted that $749 in staff and foster children luncheons were not adequately supported. Refugio contends that they maintained 96% of all receipts.**

  Again, Refugio is alluding to the portion of our sample that we did not question. The $749 in charges remain unsupported.

Board Member Compensation

- **Refugio believes their compensation of board members is reasonable. Board members are required to review materials prior to meetings and must travel to and from the meetings. Further, they claim the $250 payment per meeting does not cause members to become interested persons.**

  Our objective during our audits is to question costs that appear to be unreasonable. Since no other FFAs we have audited compensate their board members, Refugio's compensation of $250 per meeting appears excessive. California law does permit directors to receive reasonable compensation. However, we noted the following from the Attorney General's Guide for Charities, published in October 1988:

> *"Most directors of public benefit corporations serve on a volunteer basis, and do not receive compensation, other than occasional reimbursement for actual expenses of attending meetings (mileage, parking fees, meal costs).... The Attorney General audits payments to directors that are more than nominal. Standards recently adopted by the National Charities Information Bureau state that trustees and directors should be volunteers and not compensated other than for expenses."*

- **Refugio claims the $726 spent on board member dinners after board meetings was appropriate.**

  We continue to believe that these are not appropriate expenditures in the context of a non-profit corporation, especially the $148 spent on alcoholic beverages.

Entertainment Costs

- **Refugio asserts that the $4,016 spent sending five employees to Las Vegas was appropriate, given that it was intended to improve employee morale.**

  We continue to believe that expending public funds to send employees on entertainment trips is a questionable use of public funds, especially when $1,500 was given as cash allowances for the Las Vegas trip.

Quality of Services Rendered by Refugio

- **Refugio contends that "the audit does not identify any act or failure to act or expenditure by or on behalf of Refugio, which has in any fashion interfered with or inhibited the provision of quality services to foster families and children by Refugio. The auditors themselves acknowledged this fact."**

  We did not conduct a program review. Accordingly, we express no opinion on the quality of care given to the children.